

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA, EASTERN DIVISION**

<b>SHIRLEY McBAYER FLOOD, as PERSONAL REPRESENTATIVE of THE ESTATE OF DAVID DANIEL McBAYER, deceased</b>	)
	)
	)
	)
<b>Plaintiff</b>	)
	) Case No. <b>1:16-cv-1832-ACA</b>
	)
<b>CITY OF JACKSONVILLE, ALABAMA,</b>	) Hon. Annemarie C. Axon presiding
	)
	) <b>**Partially Opposed**</b>
<b>Defendant</b>	)

**DEFENDANT CITY OF JACKSONVILLE'S UNOPPOSED MOTION TO  
EXCLUDE ITS RESPONSE TO PLAINTIFF'S STATEMENTS OF FACTS  
FROM THE PAGE COUNT LIMITATION IN ITS REPLY BRIEF**

Comes now the Defendant, the City of Jacksonville ("Jacksonville"), which moves this Honorable Court for relief from the page count limitations on Defendant's Reply Brief to Plaintiff's Opposition to Jacksonville's Motion for Summary Judgment. More specifically, Jacksonville requests that this Court exclude its specific responses to Plaintiff's Narrative Statements of Facts sections from the page count limitations such that Defendant's argument section of its Reply Brief may be 10 pages in length. As good grounds for this motion, Jacksonville submits the following:

1. Prior to filing this motion, the undersigned counsel for Jacksonville consulted with Plaintiff's counsel. The Plaintiff consents that the Defendant be

allowed an additional 3 pages in its reply brief, but opposes any additional pages beyond 3, thereby still limiting the Defendant's reply brief to a total of 13 pages.

2. Plaintiff's opposition to the summary judgment motion contains approximately 14 pages of both alleged undisputed and alleged disputed facts. This Court's summary judgment requirements, as set forth in its Uniform Initial Order, require a response, in separately numbered paragraphs, to these claimed facts, along with specific references to the evidentiary record. (Doc.2/pp.18-19.) This Court's Uniform Initial Order also contemplates that summary judgment reply briefs are limited to 10 pages. (Id./p.15.)

3. Jacksonville anticipates that in order to adequately respond to Plaintiff's alleged facts in the manner contemplated by the Uniform Initial Order, it would have to use most, if not all, of its 10-page reply brief to do so, and then would have no opportunity to reply to any of the Plaintiff's legal arguments.

4. As such, in order for Jacksonville to present a full, accurate response to Plaintiff's summary judgment opposition, Jacksonville respectfully requests that this Court exclude Jacksonville's response to Plaintiff's asserted facts from the page-count limitation of the reply brief, thereby allowing Jacksonville to present 10 pages of argument.

**WHEREFORE, PREMISES CONSIDERED,** Jacksonville prays that this Court will grant its request to exceed the page count limitation in its reply brief by

issuing an order excluding its specific responses to Plaintiff's Narrative Statements of Facts sections from the page count limitations such that Defendant's argument section of its Reply Brief may be 10 pages in length.

Respectfully submitted,

/s/ *C. David Stubbs*  
C. David Stubbs (asb-7248-u83c)  
Attorney for Defendant  
City of Jacksonville

OF COUNSEL:

STUBBS, SILLS & FRYE P.C.  
1724 South Quintard Avenue  
Post Office Box 2023  
Anniston, Alabama 36202  
Phone: (256)835-5050  
Email: [david-ssf@cableone.net](mailto:david-ssf@cableone.net)

Certificate of Filing and Service

I hereby certify that the following has been served a copy of the foregoing document, on the 6th day of February, 2019, by placing the same in the U.S. mail, postage prepaid and properly addressed; or, if the party being served is a registered participant in the ECF System of the United States District Court for the Northern District of Alabama, by a "Notice of Electronic Filing" pursuant to N.D. Ala. Local Rule 5.4:

U.W. Clemon  
U.W. CLEMON, LLC  
5202 Mountain Ridge Parkway  
Birmingham, AL 35222  
[clemonus@bellsouth.net](mailto:clemonus@bellsouth.net)  
*Attorney for Plaintiff*

Brett D. Watson  
MEHRI & SKALET, PLLC  
1250 Connecticut Avenue, N.W., Suite 300  
Washington, DC 20036  
bwatson@findjustice.com  
*Attorney for Plaintiff*

Hannah C. Thompson  
BIRMINGHAM LAW GROUP  
Post Office Box 2264  
Birmingham, AL 35201  
hthompson@bhamlawgroup.com  
*Attorney for Plaintiff*

/s/ C. David Stubbs  
C. David Stubbs (asb-7248-u83c)